



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2412

Introduced 2/17/2005, by Rep. John E. Bradley

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/31A-1.1  
720 ILCS 5/31A-1.2

from Ch. 38, par. 31A-1.1  
from Ch. 38, par. 31A-1.2

Amends the Criminal Code of 1961 relating to the offenses of bringing contraband into a penal institution, possessing contraband in a penal institution, and unauthorized bringing of contraband into a penal institution by an employee. Provides that "M" (Mature) and "AO" (Adults Only) rated video games are contraband in Illinois Department of Corrections institutions and facilities and that bringing into or possessing an "M" or "AO" rated video game in an Illinois Department of Corrections institution or facility whether by a prisoner, employee, or other person is a Class A misdemeanor. Prohibits the Director of Corrections or chief administrative officer of a Department of Corrections institution or facility from authorizing "M" or "AO" rated video games to be brought into or possessed by any person in an Illinois Department of Corrections institution or facility.

LRB094 08327 RLC 41279 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Sections 31A-1.1 and 31A-1.2 as follows:

6 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

7 Sec. 31A-1.1. Bringing Contraband into a Penal  
8 Institution; Possessing Contraband in a Penal Institution.

9 (a) A person commits the offense of bringing contraband  
10 into a penal institution when he knowingly and without  
11 authority of any person designated or authorized to grant such  
12 authority (1) brings an item of contraband into a penal  
13 institution or (2) causes another to bring an item of  
14 contraband into a penal institution or (3) places an item of  
15 contraband in such proximity to a penal institution as to give  
16 an inmate access to the contraband.

17 (b) A person commits the offense of possessing contraband  
18 in a penal institution when he possesses contraband in a penal  
19 institution, regardless of the intent with which he possesses  
20 it.

21 (c) For the purposes of this Section, the words and phrases  
22 listed below shall be defined as follows:

23 (1) "Penal institution" for the purposes of items of  
24 contraband specified in clauses (i) through (xi) of  
25 subsection (c)(2) means any penitentiary, State farm,  
26 reformatory, prison, jail, house of correction, police  
27 detention area, half-way house or other institution or  
28 place for the incarceration or custody of persons under  
29 sentence for offenses awaiting trial or sentence for  
30 offenses, under arrest for an offense, a violation of  
31 probation, a violation of parole, or a violation of  
32 mandatory supervised release, or awaiting a bail setting

1 hearing or preliminary hearing; provided that where the  
2 place for incarceration or custody is housed within another  
3 public building this Act shall not apply to that part of  
4 such building unrelated to the incarceration or custody of  
5 persons. "Penal institution" for purposes of items of  
6 contraband specified in paragraph (xii) of subsection  
7 (c)(2) means an institution or facility of the Illinois  
8 Department of Corrections.

9 (2) "Item of contraband" means any of the following:

10 (i) "Alcoholic liquor" as such term is defined in  
11 Section 1-3.05 of The Liquor Control Act of 1934 as  
12 such Act may be now or hereafter amended.

13 (ii) "Cannabis" as such term is defined in  
14 subsection (a) of Section 3 of the "Cannabis Control  
15 Act", approved August 16, 1971, as now or hereafter  
16 amended.

17 (iii) "Controlled substance" as such term is  
18 defined in the "Illinois Controlled Substances Act",  
19 approved August 16, 1971, as now or hereafter amended.

20 (iv) "Hypodermic syringe" or hypodermic needle, or  
21 any instrument adapted for use of controlled  
22 substances or cannabis by subcutaneous injection.

23 (v) "Weapon" means any knife, dagger, dirk, billy,  
24 razor, stiletto, broken bottle, or other piece of glass  
25 which could be used as a dangerous weapon. Such term  
26 includes any of the devices or implements designated in  
27 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1  
28 of this Act, or any other dangerous weapon or  
29 instrument of like character.

30 (vi) "Firearm" means any device, by whatever name  
31 known, which is designed to expel a projectile or  
32 projectiles by the action of an explosion, expansion of  
33 gas or escape of gas, including but not limited to:

34 (A) any pneumatic gun, spring gun, or B-B gun  
35 which expels a single globular projectile not  
36 exceeding .18 inch in diameter, or;

1 (B) any device used exclusively for signaling  
2 or safety and required as recommended by the United  
3 States Coast Guard or the Interstate Commerce  
4 Commission; or

5 (C) any device used exclusively for the firing  
6 of stud cartridges, explosive rivets or industrial  
7 ammunition; or

8 (D) any device which is powered by electrical  
9 charging units, such as batteries, and which fires  
10 one or several barbs attached to a length of wire  
11 and which, upon hitting a human, can send out  
12 current capable of disrupting the person's nervous  
13 system in such a manner as to render him incapable  
14 of normal functioning, commonly referred to as a  
15 stun gun or taser.

16 (vii) "Firearm ammunition" means any  
17 self-contained cartridge or shotgun shell, by whatever  
18 name known, which is designed to be used or adaptable  
19 to use in a firearm, including but not limited to:

20 (A) any ammunition exclusively designed for  
21 use with a device used exclusively for signaling or  
22 safety and required or recommended by the United  
23 States Coast Guard or the Interstate Commerce  
24 Commission; or

25 (B) any ammunition designed exclusively for  
26 use with a stud or rivet driver or other similar  
27 industrial ammunition.

28 (viii) "Explosive" means, but is not limited to,  
29 bomb, bombshell, grenade, bottle or other container  
30 containing an explosive substance of over one-quarter  
31 ounce for like purposes such as black powder bombs and  
32 Molotov cocktails or artillery projectiles.

33 (ix) "Tool to defeat security mechanisms" means,  
34 but is not limited to, handcuff or security restraint  
35 key, tool designed to pick locks, or device or  
36 instrument capable of unlocking handcuff or security

1 restraints, doors to cells, rooms, gates or other areas  
2 of the penal institution.

3 (x) "Cutting tool" means, but is not limited to,  
4 hacksaw blade, wirecutter, or device, instrument or  
5 file capable of cutting through metal.

6 (xi) "Electronic contraband" means, but is not  
7 limited to, any electronic, video recording device,  
8 computer, or cellular communications equipment,  
9 including, but not limited to, cellular telephones,  
10 cellular telephone batteries, videotape recorders,  
11 pagers, computers, and computer peripheral equipment  
12 brought into or possessed in a penal institution  
13 without the written authorization of the Chief  
14 Administrative Officer.

15 (xii) With respect to institutions and facilities  
16 of the Illinois Department of Corrections only, video  
17 games rated "M" (Mature) or "AO" (Adults Only) by the  
18 Entertainment Software Rating Board.

19 (c-5) Bringing an "M" or "AO" rated video game into an  
20 Illinois Department of Corrections institution or facility is a  
21 Class A misdemeanor. Possessing an "M" or "AO" rated video game  
22 in an Illinois Department of Corrections institution or  
23 facility is a Class A misdemeanor.

24 (d) Bringing alcoholic liquor into a penal institution is a  
25 Class 4 felony. Possessing alcoholic liquor in a penal  
26 institution is a Class 4 felony.

27 (e) Bringing cannabis into a penal institution is a Class 3  
28 felony. Possessing cannabis in a penal institution is a Class 3  
29 felony.

30 (f) Bringing any amount of a controlled substance  
31 classified in Schedules III, IV or V of Article II of the  
32 Controlled Substance Act into a penal institution is a Class 2  
33 felony. Possessing any amount of a controlled substance  
34 classified in Schedule III, IV, or V of Article II of the  
35 Controlled Substance Act in a penal institution is a Class 2  
36 felony.

1 (g) Bringing any amount of a controlled substance  
2 classified in Schedules I or II of Article II of the Controlled  
3 Substance Act into a penal institution is a Class 1 felony.  
4 Possessing any amount of a controlled substance classified in  
5 Schedules I or II of Article II of the Controlled Substance Act  
6 in a penal institution is a Class 1 felony.

7 (h) Bringing an item of contraband listed in paragraph (iv)  
8 of subsection (c)(2) into a penal institution is a Class 1  
9 felony. Possessing an item of contraband listed in paragraph  
10 (iv) of subsection (c)(2) in a penal institution is a Class 1  
11 felony.

12 (i) Bringing an item of contraband listed in paragraph (v),  
13 (ix), (x), or (xi) of subsection (c)(2) into a penal  
14 institution is a Class 1 felony. Possessing an item of  
15 contraband listed in paragraph (v), (ix), (x), or (xi) of  
16 subsection (c)(2) in a penal institution is a Class 1 felony.

17 (j) Bringing an item of contraband listed in paragraphs  
18 (vi), (vii) or (viii) of subsection (c)(2) in a penal  
19 institution is a Class X felony. Possessing an item of  
20 contraband listed in paragraphs (vi), (vii), or (viii) of  
21 subsection (c)(2) in a penal institution is a Class X felony.

22 (k) It shall be an affirmative defense to subsection (b)  
23 hereof, that such possession was specifically authorized by  
24 rule, regulation, or directive of the governing authority of  
25 the penal institution or order issued pursuant thereto.

26 (l) It shall be an affirmative defense to subsection (a)(1)  
27 and subsection (b) hereof that the person bringing into or  
28 possessing contraband in a penal institution had been arrested,  
29 and that that person possessed such contraband at the time of  
30 his arrest, and that such contraband was brought into or  
31 possessed in the penal institution by that person as a direct  
32 and immediate result of his arrest.

33 (1-5) The Director of Corrections or chief administrative  
34 officer of a Department of Corrections institution or facility  
35 may not authorize the bringing into or possession of "M" or  
36 "AO" rated video games in a Department of Corrections

1 institution or facility.

2 (m) Items confiscated may be retained for use by the  
3 Department of Corrections or disposed of as deemed appropriate  
4 by the Chief Administrative Officer in accordance with  
5 Department rules or disposed of as required by law.

6 (Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

7 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

8 Sec. 31A-1.2. Unauthorized bringing of contraband into a  
9 penal institution by an employee; unauthorized possessing of  
10 contraband in a penal institution by an employee; unauthorized  
11 delivery of contraband in a penal institution by an employee.

12 (a) A person commits the offense of unauthorized bringing  
13 of contraband into a penal institution by an employee when a  
14 person who is an employee knowingly and without authority or  
15 any person designated or authorized to grant such authority:

16 (1) brings or attempts to bring an item of contraband  
17 listed in paragraphs (i) through (iv) or (xii) of  
18 subsection (d)(4) into a penal institution, or

19 (2) causes or permits another to bring an item of  
20 contraband listed in paragraphs (i) through (iv) or (xii)  
21 of subsection (d)(4) into a penal institution.

22 (b) A person commits the offense of unauthorized possession  
23 of contraband in a penal institution by an employee when a  
24 person who is an employee knowingly and without authority of  
25 any person designated or authorized to grant such authority  
26 possesses contraband listed in paragraphs (i) through (iv) or  
27 (xii) of subsection (d)(4) in a penal institution, regardless  
28 of the intent with which he possesses it.

29 (c) A person commits the offense of unauthorized delivery  
30 of contraband in a penal institution by an employee when a  
31 person who is an employee knowingly and without authority of  
32 any person designated or authorized to grant such authority:

33 (1) delivers or possesses with intent to deliver an  
34 item of contraband to any inmate of a penal institution, or

35 (2) conspires to deliver or solicits the delivery of an

1 item of contraband to any inmate of a penal institution, or

2 (3) causes or permits the delivery of an item of  
3 contraband to any inmate of a penal institution, or

4 (4) permits another person to attempt to deliver an  
5 item of contraband to any inmate of a penal institution.

6 (d) For purpose of this Section, the words and phrases  
7 listed below shall be defined as follows:

8 (1) "Penal Institution" shall have the meaning  
9 ascribed to it in subsection (c)(1) of Section 31A-1.1 of  
10 this Code;

11 (2) "Employee" means any elected or appointed officer,  
12 trustee or employee of a penal institution or of the  
13 governing authority of the penal institution, or any person  
14 who performs services for the penal institution pursuant to  
15 contract with the penal institution or its governing  
16 authority.

17 (3) "Deliver" or "delivery" means the actual,  
18 constructive or attempted transfer of possession of an item  
19 of contraband, with or without consideration, whether or  
20 not there is an agency relationship;

21 (4) "Item of contraband" means any of the following:

22 (i) "Alcoholic liquor" as such term is defined in  
23 Section 1-3.05 of the Liquor Control Act of 1934.

24 (ii) "Cannabis" as such term is defined in  
25 subsection (a) of Section 3 of the Cannabis Control  
26 Act.

27 (iii) "Controlled substance" as such term is  
28 defined in the Illinois Controlled Substances Act.

29 (iv) "Hypodermic syringe" or hypodermic needle, or  
30 any instrument adapted for use of controlled  
31 substances or cannabis by subcutaneous injection.

32 (v) "Weapon" means any knife, dagger, dirk, billy,  
33 razor, stiletto, broken bottle, or other piece of glass  
34 which could be used as a dangerous weapon. Such term  
35 includes any of the devices or implements designated in  
36 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1

1 of this Act, or any other dangerous weapon or  
2 instrument of like character.

3 (vi) "Firearm" means any device, by whatever name  
4 known, which is designed to expel a projectile or  
5 projectiles by the action of an explosion, expansion of  
6 gas or escape of gas, including but not limited to:

7 (A) any pneumatic gun, spring gun, or B-B gun  
8 which expels a single globular projectile not  
9 exceeding .18 inch in diameter; or

10 (B) any device used exclusively for signaling  
11 or safety and required or recommended by the United  
12 States Coast Guard or the Interstate Commerce  
13 Commission; or

14 (C) any device used exclusively for the firing  
15 of stud cartridges, explosive rivets or industrial  
16 ammunition; or

17 (D) any device which is powered by electrical  
18 charging units, such as batteries, and which fires  
19 one or several barbs attached to a length of wire  
20 and which, upon hitting a human, can send out  
21 current capable of disrupting the person's nervous  
22 system in such a manner as to render him incapable  
23 of normal functioning, commonly referred to as a  
24 stun gun or taser.

25 (vii) "Firearm ammunition" means any  
26 self-contained cartridge or shotgun shell, by whatever  
27 name known, which is designed to be used or adaptable  
28 to use in a firearm, including but not limited to:

29 (A) any ammunition exclusively designed for  
30 use with a device used exclusively for signaling or  
31 safety and required or recommended by the United  
32 States Coast Guard or the Interstate Commerce  
33 Commission; or

34 (B) any ammunition designed exclusively for  
35 use with a stud or rivet driver or other similar  
36 industrial ammunition.

1 (viii) "Explosive" means, but is not limited to,  
2 bomb, bombshell, grenade, bottle or other container  
3 containing an explosive substance of over one-quarter  
4 ounce for like purposes such as black powder bombs and  
5 Molotov cocktails or artillery projectiles.

6 (ix) "Tool to defeat security mechanisms" means,  
7 but is not limited to, handcuff or security restraint  
8 key, tool designed to pick locks, or device or  
9 instrument capable of unlocking handcuff or security  
10 restraints, doors to cells, rooms, gates or other areas  
11 of the penal institution.

12 (x) "Cutting tool" means, but is not limited to,  
13 hacksaw blade, wirecutter, or device, instrument or  
14 file capable of cutting through metal.

15 (xi) "Electronic contraband" means, but is not  
16 limited to, any electronic, video recording device,  
17 computer, or cellular communications equipment,  
18 including, but not limited to, cellular telephones,  
19 cellular telephone batteries, videotape recorders,  
20 pagers, computers, and computer peripheral equipment.

21 (xii) With respect to institutions and facilities  
22 of the Illinois Department of Corrections only, video  
23 games rated "M" (Mature) or "AO" (Adults Only) by the  
24 Entertainment Software Rating Board.

25 (e) A violation of paragraph (a) or (b) of this Section  
26 involving an "M" or "AO" rated video game is a Class A  
27 misdemeanor. A violation of paragraphs (a) or (b) of this  
28 Section involving alcohol is a Class 4 felony. A violation of  
29 paragraph (a) or (b) of this Section involving cannabis is a  
30 Class 2 felony. A violation of paragraph (a) or (b) involving  
31 any amount of a controlled substance classified in Schedules  
32 III, IV or V of Article II of the Illinois Controlled  
33 Substances Act is a Class 1 felony. A violation of paragraph  
34 (a) or (b) of this Section involving any amount of a controlled  
35 substance classified in Schedules I or II of Article II of the  
36 Illinois Controlled Substances Act is a Class X felony. A

1 violation of paragraph (a) or (b) involving an item of  
2 contraband listed in paragraph (iv) of subsection (d)(4) is a  
3 Class X felony. A violation of paragraph (a) or (b) involving  
4 an item of contraband listed in paragraph (v) or (xi) of  
5 subsection (d)(4) is a Class 1 felony. A violation of paragraph  
6 (a) or (b) involving an item of contraband listed in paragraphs  
7 (vi), (vii) or (viii) of subsection (d)(4) is a Class X felony.

8 (f) A violation of paragraph (c) of this Section involving  
9 an "M" or "AO" rated video game is a Class A misdemeanor. A  
10 violation of paragraph (c) of this Section involving alcoholic  
11 liquor is a Class 3 felony. A violation of paragraph (c)  
12 involving cannabis is a Class 1 felony. A violation of  
13 paragraph (c) involving any amount of a controlled substance  
14 classified in Schedules III, IV or V of Article II of the  
15 Illinois Controlled Substances Act is a Class X felony. A  
16 violation of paragraph (c) involving any amount of a controlled  
17 substance classified in Schedules I or II of Article II of the  
18 Illinois Controlled Substances Act is a Class X felony for  
19 which the minimum term of imprisonment shall be 8 years. A  
20 violation of paragraph (c) involving an item of contraband  
21 listed in paragraph (iv) of subsection (d)(4) is a Class X  
22 felony for which the minimum term of imprisonment shall be 8  
23 years. A violation of paragraph (c) involving an item of  
24 contraband listed in paragraph (v), (ix) or (x) of subsection  
25 (d)(4) is a Class X felony for which the minimum term of  
26 imprisonment shall be 10 years. A violation of paragraph (c)  
27 involving an item of contraband listed in paragraphs (vi),  
28 (vii) or (viii) of subsection (d)(4) is a Class X felony for  
29 which the minimum term of imprisonment shall be 12 years.

30 (f-5) The Director of Corrections or chief administrative  
31 officer of a Department of Corrections institution or facility  
32 may not authorize the bringing into or possession of "M" or  
33 "AO" rated video games by an employee in a Department of  
34 Corrections institution or facility.

35 (g) Items confiscated may be retained for use by the  
36 Department of Corrections or disposed of as deemed appropriate

1 by the Chief Administrative Officer in accordance with  
2 Department rules or disposed of as required by law.

3 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)